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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,042	08/15/2001	Melvin H. Sachs	ICT-10002/03	1190

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EXAMINER

VARNER, STEVE M

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary

Application No.

09/930,042

Applicant(s)

SACHS ET AL.

Examiner

Steve M Varner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/14/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Claims 2, 18, are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 10, 16-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilnau in view of Kubica.

Regarding claim 1, 19, Wilnau shows a first shell member and a structurally separate second shell member (left and right halves of 15) each having a length dimension, which is greater than a width dimension. (Fig. 6) Wilnau shows each shell having an interior surface and one substantially open side extending along the length dimension. (Fig. 6) Wilnau teaches the first shell member is securable to the second shell member so that the substantially open sides of the first and second shell members (left and right halves of 15) cooperate to define an interior volume. (Fig. 6) Wilnau shows one reinforcing member (25) positioned within the interior volume and filler material within the interior volume. (Fig. 1, 6) Wilnau shows one reinforcing member (18) affixed to the interior surface of the first and second shell members (left and right halves of 15). (Fig. 1) Wilnau does not show a protective material disposed on the interior surface of each of the shells and the filler material is of a different composition than the protective material. (Fig. 1) Kubica shows protective material (18) disposed on

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the interior surface of each of the shells (12) and the filler material (30) is of a different composition than the protective material (Abstract). (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use protective material as in Kubica in the structure of Wilnau to insulate the concrete.

Regarding claim 3, Wilnau shows the shells are u-shaped. (Fig. 12)

Regarding claim 4, Wilnau shows the filler material is concrete. (Fig. 1)

Regarding claim 5, Wilnau teaches the shells I-shaped. (Fig. 1)

Regarding claim 6, Wilnau teaches the base of the first shell (222) is wider than a base of the second shell (221). (Fig. 19)

Regarding claim 10, Wilnau teaches the basic claimed structure. Wilnau does not teach the fire protective material is a heat sink material. Kubica teaches the fire protective material is a heat sink material (18). (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a heat sink material as in Kubica in the structure of Wilnau to insulate the concrete from temperature changes.

Regarding claim 16, Wilnau does not teach thermal insulation material. Kubica teaches thermal insulation material (18). (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a thermal insulation material as in Kubica in the structure of Wilnau to insulate the concrete from temperature changes.

Regarding claim 17, the methods recited are the obvious methods of manufacturing Wilnau's modified System and Method for Reinforced Concrete Construction.

Claims 7-9, 11-15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilnau in view of Kubica and further in view of applicant's disclosure.

Regarding claims 7-9, Wilnau in view of Kubica teaches the basic claimed structure. Wilnau in view of Kubica does not teach fire-resistant materials such as mineral wool or fiberglass. The applicant's disclosure (a3) states that fire-resistant materials such as mineral wool and fiberglass are well known in the art to protect the exterior surface of a building's steel framework. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use fire-resistant materials in the structure of Wilnau to protect the exterior surface of a building's steel framework from fire and weather.

Regarding claim 11-15, Wilnau in view of Kubica shows the basic claimed structure. Wilnau in view of Kubica does not show gypsum board, cement plaster, concrete, sand, and gravel as heat sink materials. The applicant's disclosure shows gypsum board (a3), cement plaster (a3), concrete (Page 8, Line 9), sand (Page 8, Line 8), and gravel (Page 8, Line 9) as heat sink materials. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use heat sink materials as in the applicant's disclosure in the structure of Wilnau to protect the exterior surface of a building's steel framework from fire and weather.

Response to Arguments

Applicant's arguments filed 7/14/03 have been fully considered but they are not persuasive.

Applicant argues that the instant invention has two separate shell members.

Examiner agrees that the two separate shell members are different than the Wil nau embodiment of Fig. 6 in that the instant invention is connected along its length while the Wil nau embodiment of Fig. 6 is connected along its width, yet the Wil nau embodiment of Fig. 17 is connected along its length. However, the Wil nau embodiment of Fig. 6 meets the claim limitations of the instant application. Even if the claims of the instant application were drawn to the instant invention's connection along its length as discussed for a possible Examiner's Amendment with Allen M. Krass, the Wil nau embodiment of Fig. 17 would be used to reject such an amendment.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fox reveals a Corrosion-Resistant Encasement for Structural Members.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV
September 17, 2003



Carl D. Friedman
Supervisory Patent Examiner
Group 3600